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Paper No. 17

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In re Application of
George KRIKORIAN et al.
Application No. 09/490,948
Filed: January 24, 2000
Attorney Docket No. 50064

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OFFICE OF PETITIONS

AND

DECISION ON PETITIONS
37 CFR §§1.182 and 1.47
& NOTICE TO FILE
MISSING PARTS -
FILING DATE GRANTED

In re Application of
George KRIKORIAN et al.
Application No. 10/042,740
Filed: March 1, 2001
Attorney Docket No. 50064

This is a decision on the petition filed under 37 CFR 1.182 on January 16, 2002 in application serial number 09/490,948, to convert an improper Continued Prosecution Application to a continuing application filed under 37 CFR 1.53(b) having a filing date of March 1, 2001. This is also a decision on the petition under 37 CFR 1.47 filed January 16, 2002.

The petition under 37 CFR 1.182 is **granted**.

The petition under 37 CFR 1.47 is **granted**.

Petitioner is given TWO MONTHS from the date of this decision within which to file a newly executed oath specifically referencing application serial number 10/042,740 and the late oath or declaration surcharge of \$130, as set forth in 37 CFR 1.16(e), in order to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

Application Serial Number 09/490,948 is not a complete application within the meaning of 37 CFR 1.51(b) because the oath or declaration lacks the signature of a named inventor and because the application lacks status under 37 CFR 1.47. Therefore, the request for Continued Prosecution Application (CPA) under 37 CFR 1.53(d)(1)(I)(A) is improper inasmuch as the CPA request requires, *inter alia*, that the prior non-provisional application be complete within the meaning of 37 CFR 1.51(b).

Therefore, the true copy of the '948 application which accompanies the instant petition has been converted to continuing application serial number 10/042,740 filed under 37 CFR 1.53(b) having a filing date of March 1, 2002, that is, the day the CPA request intended for the '948 application was received in the Office. The CPA papers have been removed from the '948 application file and placed in the '740 application, however they will remain unprocessed.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the exhibits submitted with the declaration of Mr. Nathan Boatner accompanying the instant petition. Notice of the filing of this application will

also be published in the Official Gazette.

Petitioner is advised that the oath filed with the instant petition listing ONLY Messrs. Krikorian and Zeitlian as co-inventors cannot be accepted as part of continuing application 10/042,740. The oath makes reference to, and therefore executes, the specification of parent application 09/490,948. Thus, while the continuing application has been accorded a filing date, it is still regarded as incomplete as lacking a proper oath complying with 37 CFR 1.63.

The '948 application file will be forwarded to the Office Initial Patent Examination where it will be processed as an abandoned, incomplete application. All further correspondence should be directed to application serial number 10/042,740.

Continuing application 10/042,740 will be forwarded to the Office Initial Patent Examination where it will be processed as a new, continuing application having Rule 1.47 status. ***Petitioner is reminded that all further correspondence should be directed to application serial number 10/042,740.***

Telephone inquiries related to this decision should be directed to B. Dayoan at (703) 308-3865 or, in her absence, to the undersigned at (703) 305-1820.

A handwritten signature in black ink, appearing to read "Brian Hearn", with a stylized flourish at the end.

Brian Hearn

Senior Petitions Examiner

Office of Petitions

Office of the Deputy Commissioner

for Patent Examination Policy